

MENTAL HEALTH/DEVELOPMENTAL DISABILITIES/SUBSTANCE ABUSE
SERVICES
COMMISSION FOR MH/DD/SA SERVICES WORK GROUP

MINUTES OF THE MEETING

April 18, 2002

Senator Bill Martin, Co-Chair, called the meeting to order. The members present were Representative Alexander, Co-Chair, Senators Virginia Foxx and William Purcell.

Senator Martin introduced Lanier Cansler, Deputy Director of the Department of Health and Human Services, to give the views of the Department on the proposed addition of (7) of Section 21.14.(a) of Session Laws establishing the office of Policy and Planning. (Attachment A) Adding (7) to establish a method to avoid or resolve conflicting rules was discussed in the Committee meeting of April 4, 2002. Mr. Cansler said that the Department agreed with the Committee that the need to coordinate rules being made by the Commission and/or the Secretary to avoid conflicts exists. The Secretary has appointed Satana Dewberry, General Counsel at DHHS and Rule Making Coordinator, to oversee an internal review of the rules for the purpose of identifying duplicative rules and/or those which may oppose rules already established. He added that the Office of Policy and Planning covers everything in the Department, even beyond rule-making and reminded the Committee that the proposed rules must go through the APA process. The proposed language does not solve the problem of resolution when the Secretary and Commission continue to disagree after consultation, and this should be addressed. The Department can identify a problem but cannot do anything about it.

Senator Foxx suggested that the Administrative Process Oversight Committee look at all Departments, and Gann Watson, Staff Counsel, responded that this oversight might start with DHHS.

Senator Martin suggested non-specific language directing the Secretary and Commission Chair to work together to develop methods to identify and resolve duplications, ambiguities and inconsistencies in rules and ways of implementing the process under the existing authority, then bringing recommendations back to the MH/DD/SAS Oversight Commission for any additional changes. When the time comes to deal with the issue legislatively, suitable language might have been agreed upon. Ms. Watson said that sometimes the duty under the statute could keep the commissions from agreeing, and each commission might feel strongly that its rule is the best rule and that it has a duty to do something and statutory authority to do it. A process can be compelled whereby you try to head off duplication, write a rule that fulfills statutory obligation and is not in conflict to existing rules. If that were not possible, resolution would be up to the General Assembly. Since the initial suggestion of the Subcommittee had been meetings between the Department and the Commission, Ms. Attarian asked Senator Martin if he were suggesting a process other than convening as the method for working out resolution. He responded that the Secretary and the chair could come up with another process if they preferred in lieu of proposed (7) language calling for a meeting of the parties. Senator

Martin added that when this is being finalized during the Short, Session more specific language could be included. Mr. Cansler agreed this is a workable plan and reminded the Committee that the ultimate point is how to enforce two opposing rules on the books. Both cannot be enforced. How would the Department deal with unenforceable rules, particularly when the General Assembly is not in Session? Discussion followed concerning internal Departmental resolution processes. Senator Martin moved that Ms. Watson and Ms. Attarian work on appropriate language that could be included in a special provision. The motion was seconded by Senator Foxx and was approved.

Representative Alexander welcomed Senator Dannelly.

Representative Alexander introduced the second item of business, membership on the Commission. A draft proposal, (Attachment B) which incorporates suggestions put forth in prior subcommittee meetings, including consumers, family members of consumers, professionals in each of the three areas of service – mental health, developmental disabilities and substance abuse services - and describes the categories and qualifications of those recommended for appointment by the President Pro Tem of the Senate and the Speaker of the House. The Governor shall appoint 23 members according to criteria set forth in the proposed legislation. Membership would remain at 29. Ms Attarian prepared an *Overview of Current MH/DD/SA Commission Appointments and Projected Expiration of Terms and Resulting Vacancies* (Attachment C) describing the areas members on the present Commission represent and expiration dates of terms. Members would be appointed for three year terms, to serve only two consecutive terms, and appointments should be staggered. Discussion followed. Coalition 2001 or its successor would put names forward for nomination from various agencies to assure consumer and professional representation. The next consideration was section (e) dealing with staffing the Commission from the Department with a person knowledgeable about the fields of mental health, developmental disabilities and substance abuse and rule making to serve as a point person assigned to work with the Commission. That coordinating person would not be assigned solely to the Commission.

In response to a question from Senator Dannelly, Ms. Watson said that proposed rules must go to the Rules Review Commission which can stop a rule only on a statutory basis. After approval by the RRC, the rule goes to the General Assembly.

Representative Alexander welcomed Senator Moore to the meeting.

Dr. Visingardi, Director of MH/DD/SAS for DHHS, stressed the importance of primary consumers on the Commission – those directly involved with receiving services for themselves. Discussion followed. Questions were raised about whether Coalition 2001 is the correct organization to make recommendations to assure consumer representation. Coalition 2001 does not receive money directly from the General Assembly but represents over 50 organizations and has brought order from chaos in presenting the needs of the MH/DD/SAS community. Janet Schanzenbach speaking for Coalition 2001 reminded the Committee that the Coalition is not an incorporated group but a loose network of groups with common interests for their consumers.

After discussion, it was agreed that the language would read, “At least three of these members shall be consumers or immediate family members.”

This recommendation will now go the LOC. Ms. Watson stated that this new scheme would be phased in. Senator Foxx said that this guarantees staggered terms by the end of three appointive cycles.

Senator Foxx moved acceptance of the minutes of the April 4, 2002 meeting with minor corrections of three typos. The motion passed.

Representative Alexander thanked everyone for his or her input and participation. This was the final meeting of the Committee.

The meeting was adjourned.

Senator William Martin, Co-Chair

Representative Martha Alexander, Co-Chair

Ann Faust, Committee Assistant